

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1515 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Saran

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SANJEEV KUMAR SINGH S/o Late Parmanand Singh Resident of Fatepur,
P.S.- Fatepur, District- Patna, A/P Resident of Begum Ki Haweli, P.S.-
Khajekallah, Patnacity, District- Patna

... .. Petitioner/s

Versus

1. SUMAN SINGH D/o Late Bhupnath Singh, W/o Sanjeev Kumar Singh
Resident of Ganjpar, Post- Ekma, P.S.- Ekma, District- Saran
2. Sonali Singh D/o Sanjeev Kumar Singh Resident of Ganjpar, Post- Ekma,
P.S.- Ekma, District- Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Rajiv Ranjan, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 07-02-2024 An order of maintenance under Section 125 of the

Cr.P.C. passed by the learned Principal Judge, Family Court,
Saran at Chapra in Maintenance Case No. 201 of 2018 on 27th
September, 2019 is under challenge in the instant Revision at
the instant of the petitioner/husband.

2. By passing the impugned order, the petitioner
was directed to pay interim maintenance allowance to the
opposite party no.1/wife at the rate of Rs. 3,000/- per month and
for their minor child being opposite party no.2, Rs. 2,000/- per
month, total being Rs. 5,000/- per month.

3. It is submitted by the learned Advocate for the
petitioner/husband that the petitioner previously filed
Matrimonial Suit No. 47 of 2011. In the said Suit, the opposite
party no.1 filed an application under Section 24 of the Hindu



Marriage Act praying for grant of alimony pendente lite, the Civil Court passed an order directing the petitioner to pay Rs. 2,000/- per month as alimony pendente lite and one time litigation cost at the rate of Rs. 1,000/-. The opposite party no.1 suppressed the said fact and obtain the impugned order of interim maintenance.

4. It is also been submitted by the learned Advocate for the petitioner that when alimony pendente lite has been passed by the Civil Court, the learned Principal Judge in Family Court by disposing an application under Section 125 of the Cr.P.C. cannot pass any order of interim maintenance over and above the order passed by the Civil Court because the learned Principal Judge while disposing an application under Section 125 of the Cr.P.C. is dealing the power vested under the Criminal Procedure Code to dispose of an application under Section 125 of the Cr.P.C.

5. The above submission made by the learned Advocate for the petitioner cannot be accepted by this court as the said submission is contrary to the provision of law. It is not the law that if a married woman gets an order of alimony pendente lite, she will be debarred from getting interim maintenance allowance under Section 125 of the Cr.P.C.



Because, Section 125 of the Cr.P.C. and Section 24 of the Hindu Marriage Act operate in different fields. However, it is no longer res integra that if the petitioner gets alimony pendente lite or any other monetary relief, say, under the provision of the Protection of Women from Domestic Violence Act etc, the said amount shall be finally adjusted with the interim maintenance allowance.

6. In the instant Revision, the learned trial Judge passed an order directing the petitioner to pay interim maintenance at the rate of Rs. 3,000/- per month. When in a proceeding under Section 124 of the Hindu Marriage Act, the opposite party no.1 is reportedly getting Rs. 2,000/- per month. The said amount is required to be adjusted with the amount of interim maintenance allowance passed by the learned Principal Judge in Family Court. Thus, the order passed by the learned Principal Judge in Maintenance Case No. 201 of 2018 is modified directing the petitioner to pay Rs. 1,000/- per month to the opposite party no.1 in addition to the amount of Rs. 2,000/- which the petitioner is reportedly being paid in the above mentioned matrimonial suit.

7. Learned Advocate for the petitioner has not made any submission with regard to the amount of interim



maintenance which was granted by the learned Principal Judge, Family Court, for the minor son of the parties.

8. Being a father, it is the moral and legal obligation of the petitioner to maintain his minor child. A sum of Rs. 2,000/- is absolutely meager to maintain a minor child for his square meal, education and wearing apparels. This court is of the view that Rs. 2,000/- is absolutely necessary even for the poorest of the poor.

9. In view of the above discussion, the impugned order of interim maintenance is modified directing the petitioner to pay Rs. 1,000/- per month in addition to what has been paid in the matrimonial suit to the opposite party no.1. Remaining part of the order shall stand.

10. With the above order, the instant Revision is disposed of.

11. This order however will not dis-entitle the learned trial Judge to review the order of interim maintenance allowance at the time of final hearing of the case on the basis of evidence that may be adduced by the parties.

(Bibek Chaudhuri, J)

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